

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KATHLEEN JANICE CHILDRESS
2920 Hall Road
Corning, CA 96021

Registered Nurse License No. 481192
Public Health Nurse Certificate No. 72069

Respondent

Case No. 2007-32

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on March 21, 2008

IT IS SO ORDERED February 21, 2008



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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of the State of California
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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2007-32

12 KATHLEEN JANICE CHILDRESS
2920 Hall Road
13 Corning, CA 96021

**SECOND STIPULATED
SETTLEMENT AND
DISCIPLINARY ORDER**

14 Registered Nurse License No. 481192

15 Respondent.

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17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
22 the Board of Registered Nursing. She brought this action solely in her official capacity and is
23 represented in this matter by Edmund G. Brown, Jr., Attorney General of the State of California,
24 by Jeffrey M. Phillips, Deputy Attorney General.

25 2. Respondent Kathleen Janice Childress (Respondent) is representing
26 herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

27 3. On or about August 31, 1992, the Board of Registered Nursing issued
28 Registered Nurse License No. 481192 to Respondent. The License was in full force and effect at

all times relevant to the charges brought in Accusation No. 2007-32 and will expire on April 30, 2008, unless renewed. Accusation No. 2007-32 was filed before the Board of Registered Nursing (Board) , Department of Consumer Affairs, and was served on Respondent on September 27, 2006, which Accusation related to Respondent's Registered Nursing License. On or about January 19, 2007, Respondent submitted an application to the Board to obtain a Public Health Nurse certificate. On or about March 15, 2007, the Board adopted a Stipulated Settlement and Disciplinary Order that placed Respondent's nursing license on three years probation, with terms, commencing on April 15, 2007. This March 15, 2007 Stipulated Settlement did not address Respondent's application for a Public Health Nurse certificate.

JURISDICTION

4. Complainant and Respondent agree that good cause exists to deny Respondent's application for a Public Health Nurse certificate, based on the admissions to the allegations contained in Accusation No. 2007-32.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing to contest the Board's denial of her Public Health Nurse certificate; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2007-32.

1 9. Respondent agrees that her application for a Public Health Nurse
2 certificate is subject to denial and she agrees to be bound by the Board's imposition of discipline
3 as set forth in the Disciplinary Order below.

4 RESERVATION

5 10. The admissions made by Respondent herein are only for the purposes of
6 this proceeding, or any other proceedings in which the Board of Registered Nursing or other
7 professional licensing agency is involved, and shall not be admissible in any other criminal or
8 civil proceeding.

9 CONTINGENCY

10 11. This stipulation shall be subject to approval by the Board of Registered
11 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
12 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
13 and settlement, without notice to or participation by Respondent. By signing the stipulation,
14 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
15 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
16 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
17 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
18 between the parties, and the Board shall not be disqualified from further action by having
19 considered this matter.

20 12. The parties understand and agree that facsimile copies of this Stipulated
21 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
22 force and effect as the originals.

23 13. In consideration of the foregoing admissions and stipulations, the parties
24 agree that the Board may, without further notice or formal proceeding, issue and enter the
25 following Disciplinary Order:

26 DISCIPLINARY ORDER

27 IT IS HEREBY ORDERED that Respondent's application for a Public Health
28 Nurse certificate is approved and subject to three (3) years probation, effective April 15, 2007, to

1 run concurrently with the probation on Respondent's Registered Nursing License, based on the
2 following terms and conditions.

3 **Severability Clause.** Each condition of probation contained herein is a separate
4 and distinct condition. If any condition of this Order, or any application thereof, is declared
5 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
6 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
7 and enforceable to the fullest extent permitted by law.

8 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
9 A full and detailed account of any and all violations of law shall be reported by Respondent to
10 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
11 compliance with this condition, Respondent shall submit completed fingerprint forms and
12 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
13 as part of the licensure application process.

14 **Criminal Court Orders:** If Respondent is under criminal court orders, including
15 probation or parole, and the order is violated, this shall be deemed a violation of these probation
16 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

17 2. **Comply with the Board's Probation Program.** Respondent shall fully
18 comply with the conditions of the Probation Program established by the Board and cooperate
19 with representatives of the Board in its monitoring and investigation of the Respondent's
20 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
21 within no more than 15 days of any address change and shall at all times maintain an active,
22 current license status with the Board, including during any period of suspension. Upon
23 successful completion of probation, Respondent's license shall be fully restored.

24 3. **Report in Person.** Respondent, during the period of probation, shall
25 appear in person at interviews/meetings as directed by the Board or its designated
26 representatives.

27 4. **Residency, Practice, or Licensure Outside of State.** Periods of
28 residency or practice as a registered nurse outside of California shall not apply toward a reduction

1 of this probation time period. Respondent's probation is tolled, if and when she resides outside
2 of California. Respondent must provide written notice to the Board within 15 days of any change
3 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
4 returning to practice in this state.

5 Respondent shall provide a list of all states and territories where she has ever been
6 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
7 provide information regarding the status of each license and any changes in such license status
8 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
9 new nursing license during the term of probation.

10 5. **Submit Written Reports.** Respondent, during the period of probation,
11 shall submit or cause to be submitted such written reports/declarations and verification of actions
12 under penalty of perjury, as required by the Board. These reports/declarations shall contain
13 statements relative to Respondent's compliance with all the conditions of the Board's Probation
14 Program. Respondent shall immediately execute all release of information forms as may be
15 required by the Board or its representatives. Respondent shall provide a copy of this Decision to
16 the nursing regulatory agency in every state and territory in which she has a registered nurse
17 license.

18 6. **Function as a Registered Nurse.** Respondent, during the period of
19 probation, shall engage in the practice of registered nursing in California for a minimum of 24
20 hours per week for 6 consecutive months or as determined by the Board. For purposes of
21 compliance with the section, "engage in the practice of registered nursing" may include, when
22 approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient
23 care position that requires licensure as a registered nurse. The Board may require that advanced
24 practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6
25 consecutive months or as determined by the Board.

26 If Respondent has not complied with this condition during the probationary term,
27 and Respondent has presented sufficient documentation of her good faith efforts to comply with
28 this condition, and if no other conditions have been violated, the Board, in its discretion, may

1 grant an extension of Respondent's probation period up to one year without further hearing in
2 order to comply with this condition. During the one year extension, all original conditions of
3 probation shall apply.

4 **7. Employment Approval and Reporting Requirements.** Respondent
5 shall obtain prior approval from the Board before commencing or continuing any employment,
6 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
7 performance evaluations and other employment related reports as a registered nurse upon request
8 of the Board. Respondent shall provide a copy of this Decision to her employer and immediate
9 supervisors prior to commencement of any nursing or other health care related employment.

10 In addition to the above, Respondent shall notify the Board in writing within
11 seventy-two (72) hours after she obtains any nursing or other health care related employment.
12 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
13 terminated or separated, regardless of cause, from any nursing, or other health care related
14 employment with a full explanation of the circumstances surrounding the termination or
15 separation.

16 **8. Supervision.** Respondent shall obtain prior approval from the Board
17 regarding Respondent's level of supervision and/or collaboration before commencing or
18 continuing any employment as a registered nurse, or education and training that includes patient
19 care. Respondent shall practice only under the direct supervision of a registered nurse in good
20 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
21 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
22 approved.

23 Respondent's level of supervision and/or collaboration may include, but is not
24 limited to the following:

25 (a) Maximum - The individual providing supervision and/or collaboration is
26 present in the patient care area or in any other work setting at all times.

27 (b) Moderate - The individual providing supervision and/or collaboration is in
28 the patient care unit or in any other work setting at least half the hours Respondent works.

1 (c) Minimum - The individual providing supervision and/or collaboration has
2 person-to-person communication with Respondent at least twice during each shift worked.

3 (d) Home Health Care - If Respondent is approved to work in the home health
4 care setting, the individual providing supervision and/or collaboration shall have person-to-
5 person communication with Respondent as required by the Board each work day. Respondent
6 shall maintain telephone or other telecommunication contact with the individual providing
7 supervision and/or collaboration as required by the Board during each work day. The individual
8 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
9 site visits to patients' homes visited by Respondent with or without Respondent present.

10 9. **Employment Limitations.** Respondent shall not work for a nurse's
11 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
12 traveling nurse, or for an in-house nursing pool.

13 Respondent shall not work for a licensed home health agency as a visiting nurse
14 unless the registered nursing supervision and other protections for home visits have been
15 approved by the Board. Respondent shall not work in any other registered nursing occupation
16 where home visits are required.

17 Respondent shall not work in any health care setting as a supervisor of registered
18 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
19 nurses and/or unlicensed assistive personnel on a case-by-case basis. Respondent shall not work
20 as a faculty member in an approved school of nursing or as an instructor in a Board approved
21 continuing education program. Respondent shall work only on a regularly assigned, identified
22 and predetermined worksite(s) and shall not work in a float capacity. If Respondent is working
23 or intends to work in excess of 40 hours per week, the Board may request documentation to
24 determine whether there should be restrictions on the hours of work.

25 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
26 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
27 than six months prior to the end of her probationary term.

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Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Cost Recovery.** Respondent shall pay to the Board additional costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the additional amount of \$ 474.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

12. **Violation of Probation.** If Respondent violates the conditions of her probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license. If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

13. **License Surrender.** During Respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender her license and her Public Health Nurse certificate to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and

1 reasonable under the circumstances, without further hearing. Upon formal acceptance of the
2 tendered license and wall certificate, Respondent will no longer be subject to the conditions of
3 probation.

4 Surrender of Respondent's license and certificate shall be considered a
5 disciplinary action and shall become a part of Respondent's license history with the Board. A
6 registered nurse whose license or certificate has been surrendered may petition the Board for
7 reinstatement no sooner than the following minimum periods from the effective date of the
8 disciplinary decision:

9 (1) Two years for reinstatement of a license that was surrendered for any
10 reason other than a mental or physical illness; or

11 (2) One year for a license surrendered for a mental or physical illness.

12 14. **Physical Examination.** Upon request by the Board, Respondent, at her
13 expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is
14 approved by the Board before the assessment is performed, submit an assessment of the
15 Respondent's physical condition and capability to perform the duties of a registered nurse. Such
16 an assessment shall be submitted in a format acceptable to the Board. If medically determined, a
17 recommended treatment program will be instituted and followed by the Respondent with the
18 physician, nurse practitioner, or physician assistant providing written reports to the Board on
19 forms provided by the Board.

20 If Respondent is determined to be unable to practice safely as a registered nurse,
21 the licensed physician, nurse practitioner, or physician assistant making this determination shall
22 immediately notify the Board and Respondent by telephone, and the Board shall request that the
23 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
24 shall immediately cease practice and shall not resume practice until notified by the Board.
25 During this period of suspension, Respondent shall not engage in any practice for which a license
26 issued by the Board is required until the Board has notified Respondent that a medical
27 determination permits Respondent to resume practice. This period of suspension will not apply
28 to the reduction of this probationary time period.

1 If Respondent fails to have the above assessment completed within 45-days from
2 the date of a written request by the Board, Respondent shall immediately cease practice and shall
3 not resume practice until notified by the Board. This period of suspension will not apply to the
4 reduction of this probationary time period. The Board may waive or postpone this suspension
5 only if significant, documented evidence of mitigation is provided. Such evidence must establish
6 good faith efforts by Respondent to obtain the assessment, and a specific date for compliance
7 must be provided. Only one such waiver or extension may be permitted.

8 **15. Participate in Treatment/Rehabilitation Program for Chemical**
9 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
10 period or shall have successfully completed prior to commencement of probation a Board-
11 approved treatment/rehabilitation program of at least six months duration. As required, reports
12 shall be submitted by the program on forms provided by the Board. If Respondent has not
13 completed a Board-approved treatment/rehabilitation program prior to commencement of
14 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
15 a program. If a program is not successfully completed within the first nine months of probation,
16 the Board shall consider Respondent in violation of probation.

17 Based on Board recommendation, each week Respondent shall be required to
18 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
19 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
20 by the Board. If a nurse support group is not available, an additional 12-step meeting or
21 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
22 such attendance to the Board during the entire period of probation. Respondent shall continue
23 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
24 mental health examiner and/or other ongoing recovery groups.

25 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
26 shall completely abstain from the possession, injection or consumption by any route of all
27 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
28 the same are ordered by a health care professional legally authorized to do so as part of

1 documented medical treatment. Respondent shall have sent to the Board, in writing and within
2 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
3 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
4 medication will no longer be required, and the effect on the recovery plan, if appropriate.

5 Respondent shall identify for the Board a single physician, nurse practitioner or
6 physician assistant who shall be aware of Respondent's history of substance abuse and will
7 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
8 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
9 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
10 condition. If any substances considered addictive have been prescribed, the report shall identify a
11 program for the time limited use of any such substances.

12 The Board may require the single coordinating physician, nurse practitioner, or
13 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
14 addictive medicine.

15 17. **Submit to Tests and Samples.** Respondent, at her expense, shall
16 participate in a random, biological fluid testing or a drug screening program which the Board
17 approves. The length of time and frequency will be subject to approval by the Board.
18 Respondent is responsible for keeping the Board informed of Respondent's current telephone
19 number at all times. Respondent shall also ensure that messages may be left at the telephone
20 number when she is not available and ensure that reports are submitted directly by the testing
21 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
22 to the Board by the program and Respondent shall be considered in violation of probation.

23 In addition, Respondent, at any time during the period of probation, shall fully
24 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
25 tests and samples as the Board or its representatives may require for the detection of alcohol,
26 narcotics, hypnotics, dangerous drugs, or other controlled substances.

27 If Respondent has a positive drug screen for any substance not legally authorized
28 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the

1 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
2 from practice pending the final decision on the petition to revoke probation or the accusation.
3 This period of suspension will not apply to the reduction of this probationary time period.

4 If Respondent fails to participate in a random, biological fluid testing or drug
5 screening program within the specified time frame, Respondent shall immediately cease practice
6 and shall not resume practice until notified by the Board. After taking into account documented
7 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
8 Board may suspend Respondent from practice pending the final decision on the petition to
9 revoke probation or the accusation. This period of suspension will not apply to the reduction of
10 this probationary time period.

11 18. **Mental Health Examination.** Upon request by the Board, Respondent
12 shall have a mental health examination including psychological testing as appropriate to
13 determine her capability to perform the duties of a registered nurse. The examination will be
14 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by
15 the Board. The examining mental health practitioner will submit a written report of that
16 assessment and recommendations to the Board. All costs are the responsibility of Respondent.
17 Recommendations for treatment, therapy or counseling made as a result of the mental health
18 examination will be instituted and followed by Respondent.

19 If Respondent is determined to be unable to practice safely as a registered nurse,
20 the licensed mental health care practitioner making this determination shall immediately notify
21 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
22 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
23 practice and may not resume practice until notified by the Board. During this period of
24 suspension, Respondent shall not engage in any practice for which a license issued by the Board
25 is required, until the Board has notified Respondent that a mental health determination permits
26 Respondent to resume practice. This period of suspension will not apply to the reduction of this
27 probationary time period.

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1 If Respondent fails to have the above assessment completed within 45-days from
2 the Board's written request, Respondent shall immediately cease practice and shall not resume
3 practice until notified by the Board. This period of suspension will not apply to the reduction of
4 this probationary time period. The Board may waive or postpone this suspension only if
5 significant, documented evidence of mitigation is provided. Such evidence must establish good
6 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
7 provided. Only one such waiver or extension may be permitted.

8 19. **Therapy or Counseling Program.** Upon request by the Board,
9 Respondent, at her expense, shall participate in an on-going counseling program until such time
10 as the Board releases her from this requirement and only upon the recommendation of the
11 counselor. Written progress reports from the counselor will be required at various intervals.

12 ACCEPTANCE

13 I have carefully read the Stipulated Settlement and Disciplinary Order. I
14 understand the stipulation and the effect it will have on my Public Health Nurse certificate. I
15 enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
16 intelligently, and agree to be bound by the Decision and Order of the Board of Registered
17 Nursing.

18 DATED: 12/14/07



KATHLEEN JANICE CHILDRESS
Respondent

20 ENDORSEMENT

21 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
22 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
23 Affairs.

24 DATED: 12/14/07

EDMUND G. BROWN JR., Attorney General
of the State of California

26 
JEFFREY M. PHILLIPS
Deputy Attorney General

28 
Attorneys for Complainant

Exhibit A

Accusation No. 2007-32

1 BILL LOCKYER, Attorney General
of the State of California
2 JEFFREY M. PHILLIPS, State Bar No. 154990
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6 Attorneys for Complainant

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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2007-32

13 **KATHLEEN JANICE CHILDRESS aka**
14 **KATHLEEN J. CHILDRESS**
2920 Hall Road
Coming, California 96021

FIRST AMENDED ACCUSATION

15 Registered Nurse License No. 481192

16 Respondent.

17 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Second Amended Accusation solely in her official
20 capacity as the Executive Officer of the Board of Registered Nursing ("Board"), Department of
21 Consumer Affairs.

22 **License History**

23 2. On or about August 31, 1992, the Board issued Registered Nurse License
24 Number 481192 to KATHLEEN JANICE CHILDRESS, also known as KATHLEEN J.
25 CHILDRESS ("Respondent"). The license will expire on April 30, 2008, unless renewed.

26 **STATUTORY PROVISIONS**

27 3. Section 2750 of the Business and Professions Code ("Code") provides, in
28 pertinent part, that the Board may discipline any licensee, including a licensee holding a

temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

7. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

1 8. Code section 125.3 provides, in pertinent part, that the Board may request
2 the administrative law judge to direct a licensee found to have committed a violation or
3 violations of the Licensing Act to pay a sum not to exceed the reasonable costs of the
4 investigation and enforcement of the case.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Criminal Convictions)**

7 9. Respondent is subject to disciplinary action under Code section 2761,
8 subdivision (f), in that Respondent committed crimes substantially related to the qualifications,
9 functions, and duties of a registered nurse, as follows:

10 a. On or about June 15, 2004, in the Superior Court of California, County of
11 Glenn, in the case entitled, *People of the State of California v. Kathleen J. Childress* (Super. Ct.,
12 Glenn County Willows Branch, 2004, Case No. 04SCR04203), Respondent was convicted by the
13 court on her plea of guilty of violating Vehicle Code section 23152, subdivision (a) (Driving
14 Under the Influence of Alcohol or Drugs), a misdemeanor. The circumstances of the crime are
15 that on or about April 24, 2004, Respondent did willfully and unlawfully, while under the
16 influence of drugs (benzodiazepines), drive a vehicle and failed to carry evidence in the form of
17 responsibility in effect for the vehicle (e.g., no proof of insurance).

18 b. On or about July 13, 2004, in the Superior Court of California, County of
19 Tehama, in the case entitled, *People of the State of California v. Kathleen J. Childress* (Super.
20 Ct. Tehama County, 2004, Case No. SCR24555), Respondent was convicted by the court on her
21 plea of guilty of violating Vehicle Code section 23152, subdivision (a) (Driving Under the
22 Influence of Alcohol or Drugs), a misdemeanor. The circumstances of the crime are that on or
23 about April 25, 2004, Respondent did willfully and unlawfully, while under the influence of a
24 drug and controlled substance, did drive a vehicle that caused property damage. Such a crime is
25 substantially related to the qualifications, functions and duties of a registered nurse.

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SECOND CAUSE FOR DISCIPLINE

(Use Drugs and/or Alcoholic to the Extent or in a Manner Dangerous or Injurious)

10. Respondent is subject to disciplinary action under Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (b), in that Respondent used drugs and/or alcohol to an extent or in a manner dangerous or injurious to herself or others, as set forth in paragraph 9, above.

THIRD CAUSE FOR DISCIPLINE

(Criminal Conviction Involving the Consumption of Alcohol or Drugs)

11. Respondent is subject to disciplinary action under Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (c), in that Respondent was convicted of a crimes involving the consumption of an alcoholic beverage or a drug, or their combined influence, as set forth in paragraph 9, above.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

12. Respondent is subject to disciplinary action under Code section 2761, subdivision (a), on the grounds of unprofessional conduct, in that while licensed as a registered nurse and participating in the Board's Diversion Program for use of alcohol and or drugs, Respondent failed the program, as the following events occurred:

a. On or about October 10, 2001, Respondent became a participant in the Board's Diversion Program. On or about August 26, 2002, Respondent was terminated from the program for a failure to derive any benefit from the program.

b. On or about February 6, 2003, Respondent became a participant in the Board's Diversion Program. On February 7, August 24, and September 6, 2005, Respondent tested positive for using alcohol in violation of her contract with the Board's Diversion Program. Furthermore, Respondent failed to make mandatory check in phone calls for urine testing in August 2003, through March 2004 and in September 2005. Respondent failed to show for her September 21, 2005, random drug test. On October 20, 2005, Respondent appeared at the Board's Diversion Evaluation Committee ("DEC") meeting and was inappropriately angry, refused to

answer questions, appeared unstable, left the room abruptly and slammed the door. On October 20, 2005, Respondent was terminated from the program for unsuccessful completion of the program and for being a public threat.


c. Complainant incorporates by reference and realleges the allegations contained in paragraph 9.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 481192 issued to KATHLEEN JANICE CHILDRESS, also known as KATHLEEN J. CHILDRESS;
2. Ordering KATHLEEN JANICE CHILDRESS, also known as KATHLEEN J. CHILDRESS to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 9/22/06


RUTH ANNTERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant